

STATE OF MICHIGAN
COURT OF APPEALS

DANSE CORPORATION,

Petitioner-Appellant,

v

CITY OF MADISON HEIGHTS,

Respondent-Appellee.

UNPUBLISHED
March 23, 2001

No. 215486
Tax Tribunal
LC No. 230939

Before: Sawyer, P.J., and Murphy and Fitzgerald, JJ.

PER CURIAM.

Petitioner appeals from a decision of the Michigan Tax Tribunal including certain items of personal property in its property tax assessments for tax years 1994 through 1997. We affirm.

At issue are plastic injection molds and related components used in the manufacture of roof line ridge vents sold by petitioner. Petitioner claim that these molds should be excluded under the “special tools” exemption in MCL 211.9b; MSA 7.9(2). The tribunal rejected that claim, concluding the molds do not come within the definition of “special tools.” We agree.

MCL 211.9b; MSA 7.9(2) provides as follows:

- (1) All special tools are exempt from taxation.
- (2) As used in this section, “special tools” means those manufacturing requisites, such as dies, jigs, fixtures, molds, patterns, gauges, or other tools, as defined by the state tax commission, that are held for use and not for sale in the ordinary course of business.
- (3) Special tools are not exempt from taxation if the value of the special tools is included in the valuation of inventory produced for sale.

The state tax commission exercised its responsibility to define “special tools” by adopting Rule 21, which provides as follows:

“Special tools” as used in section 9b of the act means those finished or unfinished devices such as dies, jigs, fixtures, molds, patterns and special gauges, used or being prepared for use in the manufacturing function for which they are designed or are acquired or made for the production of products or models and are of such a specialized nature that their utility and amortization cease with the discontinuance of such products or models. [1979 AC, R 209.21]

Respondent, as well the Michigan Municipal League in its amicus curiae brief, urge us to also consider the following factors set forth in the *Michigan State Tax Commission Assessors’ Manual*, Chapter 15, pp 15-6 and 15-7:

The following guidelines should be used by the assessor when making the determination of whether a particular device is a special tool.

1. Special tools include devices such as dies, jigs, fixtures, molds, patterns, and gauges. Special tools do not include devices which differ in nature from dies, jigs, fixtures, molds, patterns, and gauges. Thus the press into which a die is placed is not a special tool.
2. Special tools are specially designed to produce a particular product and could not be used to produce a different product.
3. Special tools are used to produce models or products which are expected to change. Thus, a die used to produce a car fender is likely a special tool because the fender will predictably change, whereas a mold used in the manufacture of a common wrench will not change for many years and is not a special tool.
4. Special tools frequently become obsolete before they wear out and therefore have a short useful life.
5. Models or products produced by special tools are usually expected to change within 3 years.
6. A die, jig, etc., may have a short life simply because it wears out fast rather than because it is used to produce a model. In this case the tool would not be exempt as a special tool.
7. The term “amortization” used by the State Tax Commission in its definition of special tools refers to the writing off of an expenditure over a certain period of time. This reference to amortization in the definition of special tools is more of a descriptive aid than a condition that must be met.

The first issue we must address is whether the factors set forth above from the *Assessor’s Manual* are determinative. We agree with respondent and the amicus that they are.

First, the amicus curiae directs our attention to MCL 211.10e; MSA 7.10(5), which provides as follows:

All assessing officials, whose duty it is to assess real or personal property on which real or personal property taxes are levied by any taxing unit of the state, shall use only the official assessor's manual or any manual approved by the state tax commission, consistent with the official assessor's manual, with their latest supplements, as prepared or approved by the state tax commission as a guide in preparing assessments. Beginning with the tax assessing year 1978, all assessing officials shall maintain records relevant to the assessments, including appraisal record cards, personal property records, historical assessment data, tax maps, and land value maps consistent with standards set forth in the assessor's manual published by the state tax commission.

Further, the Attorney General has issued an opinion which reinforces the position that assessors are obligated to use the manual in preparing assessments:

The use of the Assessor's Manual as a guide in preparing assessments is mandated by 1962 PA 122, § 1, *supra*, in the commanding language of "shall" directed to public officers. Thus, there is a duty on the part of local assessors to observe the Assessor's Manual as a guide in preparing assessments. [1981 OAG 5909, p 207.]

Second, exemption statutes must be strictly construed in favor of the taxing unit. *Ladies Literary Club v Grand Rapids*, 409 Mich 748, 753; 298 NW2d 422 (1980). This Court applied that principle in *University Microfilms v Scio Twp*, 76 Mich App 616; 257 NW2d 265 (1977), to reach the conclusion that master microfilm negatives are not "special tools." At issue in *University Microfilms* is whether master microfilm negatives of printed material used to produce additional copies for sale to others constitutes a "special tool." This Court agreed with the Tax Tribunal that such master microfilm negatives do not constitute a special tool, stating:

In its opinion, the tax tribunal found that plaintiff's master negatives do not wear out or become obsolete in a short time and therefore do not come within the definition of "special tool". Plaintiff argues that master negatives are used as a pattern to reproduce an image and are therefore similar to molds, dies and the like. Additionally, plaintiff submits that there is no requirement that the tool be short lived in order to qualify as a "special tool", and to the extent that the tax commission's definition contains that requirement it is erroneous.

. . . The tax commission has defined these items. We agree with the tax tribunal that plaintiff's master negatives do not meet the definition. [*University Microfilms, supra* at 621-622.]

Therefore, *University Microfilms* appears to accept a definition of "special tools" that includes a limited life expectancy.

Furthermore, the Michigan Supreme Court has relied upon the *Assessor's Manual* in a number of cases. In *Antisdale v Galesburg*, 420 Mich 265, 276 n 1; 362 NW2d 632 (1985), the Court relied upon the manual to provide a description of the three valuation methods employed by the tax commission. In *Edward Rose Building Co v Independence Twp*, 436 Mich 620, 636-637; 462 NW2d 325 (1990), the Court quoted from a portion of the *Antisdale* footnote in a discussion of the meaning of "market value." Finally, in *Ford Motor Co v State Tax Commission*, 400 Mich 499, 523 n 7; 255 NW2d 608 (1977), Justice Williams' dissent makes reference to the manual in a footnote.

For the above reasons, we conclude that the tax tribunal properly relied upon the factors in the *Assessor's Manual* in defining "special tool." Further, there is no indication that the molds have a limited life span. Therefore, they do not meet the definition, particularly with respect to factors 3, 4 and 5.

Turning to the valuation issues raised by petitioner, we first address petitioner's challenge to the tribunal's use of the cost approach in determining the value of the molds. The tribunal's decision on valuation essentially went as follows: there are three approaches to valuation, the market approach, the income approach and the cost approach. It rejected the market approach because it found the market to be too specialized to produce accurate numbers. It further rejected the income approach because neither party supplied adequate data to make use of the income approach. Therefore, the tribunal settled on the cost approach. We cannot say that the tribunal's reasoning is irrational. There is no ready market in molds that make a specific roof vent, nor can the tribunal be expected to employ a valuation method if neither party provides evidence under that method. Accordingly, the tribunal's decision to employ the cost approach was not erroneous.

Petitioner's remaining arguments concerning valuation all relate to application of the income approach and the market approach. Because neither of those approaches were utilized by the tribunal, petitioner's arguments are moot.

Affirmed.

/s/ William B. Murphy
/s/ E. Thomas Fitzgerald